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ABSTRACT

By systematically identifying the typical stages in the development of educational legislation, this paper attempts to aid educators interested in proposing legislation on the state level. The authors describe the legislative process in terms of a model involving the following seven major functions: involving community groups, analyzing the present educational system, specifying legislative goals, developing a bill, preparing for passage of a bill, implementing the new law, and evaluating compliance with the law. Each function is discussed individually, using examples based on the passage of special education legislation in several states. (JG)

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A SYSTEMS MODEL FOR FACILITATING PASSAGE OF SCHOOL LAW WITH IMPLICATIONS FOR SPECIAL EDUCATION

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A SYSTEMS MODEL FOR FACILITATING PASSAGE OF SCHOOL LAW

WITH IMPLICATIONS FOR SPECIAL EDUCATION

Seven functions in the passage and implementation of school law are discussed in terms of special education. The functions are: 1.0 INVOLVE COMMUNITY GROUPS; 2.0 ANALYZE EDUCATIONAL SYSTEM; 3.0 SPECIFY LAW GOALS; 4.0 DEVELOP BILL; 5.0 PREPARE FOR LAW PASSAGE; 6.0 IMPLEMENT LAW; 7.0 EVALUATE COMPLIANCE. It is suggested that fostering change in school law is a major continuing concern of those engaged in providing educational services to exceptional children.

A SYSTEMS MODEL FOR FACILITATING PASSAGE OF SCHOOL LAW WITH IMPLICATIONS FOR SPECIAL EDUCATION

School laws over the years have provided structure and enabled educational leaders to perform their roles and responsibilities. An illustration of the importance of school law is the practice of professional educational specialty training programs such as administration, guidance, special education and school psychology to include courses or seminars in ethical and legal considerations in education. As techniques, methods, and community awareness increase in education of the handicapped, existing legal structures are found to inadequately meet the needs of educational systems. New legislation may be required, or old laws amended. Yet, few references could be found by the present authors which offer systematic description of the social and political as well as legislative steps in passage of school law.

Many Americans have an idealistic notion of government as representing the wishes of the majority by simple reflection of the electoral process. According to this limited view, to have legislation introduced on the floor of the state legislature one simply writes to his local representative. Anyone who has tried to affect legislation in this way is aware of the frustrations involved. Often groups and organizations use a similar but larger scale approach to mount a "grass roots" campaign in proposing legislation with disappointing results. Unfortunately, the necessary steps to follow in dealing with legislatures are not always the obvious ones. Kimbrough (1964) has discussed this at length.

The present paper represents an attempt to systematically identify the stages in the development of legislative proposals affecting schools. Special recognition is given to alternative sources of power in state govenment in contrast to the "formal institution-association" concept of power which is characterized by the assumptions that 1) the governmental institution controls the power of establishing public policy, 2) unofficial influence upon public policy comes primarily from formal interest groups and associations, and 3) basic policy is formulated as a result of interaction of legislators and formal interest groups (Kimbrough, 1963). While these assumptions are widely accepted, they do not always hold true in real situations. Specifically, in certain situations citizen groups may have more power than one might expect. Other times a legislator, because of committee appointments, seniority, relationship to the press, or some other characteristics may have more real power than might ordinarily go with his job.

Educators interested in proposing legislation on the state level are faced with dealing with a highly political and not always visible structure. In Figure 1, major tasks or events have been organized into functions. These functions are named and listed in Figure 2. Generally, the functions have

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Insert Figure 1 and Table 1 about here
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been numbered to reflect order. However, it may become necessary in practice to reenter a function already passed, or skip one function and then return to it later. It is suspected that when a law is successfully passed through a state legislature and implemented, all of the events represented in this systems model have been considered at some time in the evolution of the legislation.

It is the plan of this paper to describe all of the functions in detail giving examples from the experiences of several states in the passage of legislation pertaining to special educational services. Numbers in parenthesis in the text of the article refer to subsystems in the model.

Involve Community Groups 1.0

It would probably not be correct to say that all school law is rooted in community support. Many aspects of school law were devised simply to facilitate maintenance and administration of school programs. Yet, it is probably safe to assume that most educationally related legislation is reflective of needs or conditions within the schools. The legislative proposal may not represent the best or most desirable solution to the educational needs, but there probably are some reasons-financial, social educational, or political-for the legislation to exist. Thus, the need for a change, innovation, or improvement must be evident from existing conditions at the local level (1.1). These needs may be recognized in various ways. For example, a deficiency may become obvious to professionals as they endeavor to provide services. Occasionally needs have emerged as a result of court cases. A specific example recently occurred in Pennsylvania where the courts considered the need for the State Department of Public Instruction to implement programs for education of severely handicapped children who, according to practices in the state, were excluded from attendance in public schools (Council for Educational Children, 1972).

Involvement of community members on the local level is desirable (1.2). However, a full scale public relations campaign designed to make everyone in the community militantly in favor of the issues is neither feasible nor desirable. More specifically, local support from specific interested parties should be sought. For example, in matters of legislation concerning

expansion of school programs it would probably not be beneficial to proponents of the laws to seek support from retired members of the community who understandably have been historically opposed to school legislation which would result in higher taxes upon their already burdened fixed-incomes. But selection of individuals, agencies, and community groups to become involved, write letters, campaign for passage, and provide expertise to interested parties in the community and in other ways support the proposed legislative changes would be desirable.

A good example of selective community activation is illustrated by the efforts in Kentucky to establish improved special education programs in the State's public schools. The Kentucky Commission on Children and Youth resulted from the White House Conference on Children and Youth of 1970. A task force of professional educators and local volunteers was formed to assess the needs of Kentucky. In 1973 a state level Delegate Assembly was held as a forum for representatives from interested state organizations such as the PTA, Council for Exceptional Children, American Association for Children with Learning Disabilities, and the Kentucky Association of Retarded Children. This Delegate Assembly organized to review the needs of the state and plan further action including involvement at the community and state legislature levels.

During the early stages of developing legislative bills, the positions of various factions in the community toward the bill should be anticipated (1.3) For example, in the case of legislation permitting expanded special education services which would result in an increase in the tax base, the objections of senior citizens should be anticipated. Also professionals who work with handicapped children might be encouraged to support the proposal for increased services through their professional organizations as well as individually.

Political groups are often organized with the purpose of giving impetus to pending legislation (1.4). Planning for their involvement should come early. However, due to the political nature of these groups, they should not be relied upon to carry a significant portion of the responsibility for tasks which must be accomplished. Furthermore, care should be exercised to keep the issue from turning into a political one. During the initial stages of preparation, local political parties and special interest groups could provide helpful advice and guidance on dealing with state legislatures.

While in the beginning stages of working with special interest and political groups, efforts can be initiated toward mediation of emerging conflicts among and within those groups (1.5). Mediating conflict at this stage will serve two important functions. Firstly, it will bring opposing positions into the open while there is enough time to foster resolutions. Secondly, the availability of a forum for exploring alternative positions will serve to reduce problems later in process.

The final goal of the Involvement of Community Groups function is to achieve general agreement that there is a need for the legislation (1.6). Through the discussions and meetings which were generated during the stages of the Community Involvement subsystem, it might become apparent that the present legal structure is sufficient to meet the needs with some change or clarification of implementing statutes or regulations. On the other hand, it is possible that during these early stages, the need for specific legislation will become apparent.

Analyze Educational System 2.0

After organizing for action on the community level, the advice and opinions of professional consultants are useful in developing knowledge about the present situation in a variety of areas (2.1). For example, in

attempting to pass school legislation to implement vocational programs for the handicapped, consultants from the legal, educational, social rehabilitation and psychological professions can contribute to the broad base of knowledge necessary to thoroughly evaluate the needs of the educational system.

Needs assessment procedures should be developed integrating the contributions of the various professional and lay viewpoints, and needs assessments should be conducted (2.2). The information provided by the needs assessment will be crucial in formulating and implementing the legislative proposals. These needs assessment techniques should consider both educational and community needs regarding the problem.

When the nature of the needs are clearly understood, resources currently available should be investigated (2.3). Specifically, the availability and training of persons with skills which will be necessary to implement the provisions of the proposed law should be considered. When a lack of availability of the necessary skill emerges, consideration should be given to the feasibility of training people, or attracting those already trained from other locations. In addition, other types of resources which must be evaluated in terms of established needs are funding sources, physical facilities such as special classrooms, special transportation needs, etc., and area or space requirements. Information about availability of resource can contribute significantly to the molding of legislation.

Avenues of possible solutions should be explored next (2.4). This is based upon needs assessments, availability of resources and other information gained earlier. Alternatives should be listed, and priorities of alternatives should be explored. Desirable as well as undesirable aspects ought to be considered at this level. Each solution might be further considered in view of the existing legal structure (2.5). Specifically, legislation already

on the books might be worded so as to obstruct or conflict with some of the possible alternatives. Other existing laws might actually reinforce or support the legislation being proposed.

Specify Law Goals 3.0

In specifying goals for the proposed legislation a task which will be called legislative research here is recommended as the starting point (3.1). Legislative research refers to the gathering of legal references and information pertinent to the development of the bill. For example, it might be very useful to know how similar legislation has been approached in other states. Also, knowledge of any court decisions, or prior legislation which might influence the selection of a specific course of action would be helpful. Many states offer to the members of the legislative assembly a research service which performs this function for the members of the assembly. For example, in Kentucky the Legislative Research Commission maintains a legal reference file, an index of legal bills and resolutions of previous sessions, and information about legislation in other states. In addition the Commission provides help to legislators in drafting of bills. Obtaining the services of such a legislative research group might offer sufficient motivation to contact a political party or legislator early in bill preparation activities.

Legislative research and the development of guidelines for the proposed legislation (3.2) can be mutually dependent. Thus, as guidelines are developed, new areas of research might be suggested. For example, it may be found to be very desirable that funding sources are built into a school innovation such as pre-school programs for children with developmental disabilities. A guideline or outcome for this legislation could be that

funding sources should be included in the bill. This would necessitate further legislative research to insure legality, dependability, and appropriateness of the funding base. Thus, subsystems 3.1 and 3.2 are interdependent. The next two tasks, specify funding sources (3.3) and specify enforcement authority (3.4) complement each other but are not mutually dependent. The bill will not be capable of implementation if some officer or representative of the state government is not responsible for its administration. Moreover, the bill would be non-functional if there were not adequate funds to support it. The importance of selection of administrative authority and specification of funding sources has been emphasized in an article by Bersoff (1971) pertaining to school psychological services.

Develop Bill 4.0

Each of the subsystems in developing a bill have implications for the other subsystems in the function. That is, they are interdependent. Moreover, they are related to function 3.0, dealing with the specification of goals. It is suggested here that legal consultation be sought early in the development of the bill (4.1). Often such services will be available to legislators in the state assembly. If the group or individual who is proposing the legislation is working directly with a legislator, the services offered by the state might be utilized. Furthermore, some states have published guidelines for bill drafting which can reduce the amount of legal consultation needed (e.g., Commonwealth of Kentucky, 1971). These guidelines can be helpful in describing such considerations as style, format, and language of bills. Their use will facilitate the consultant's work by allowing him or her to be more occupied with the legality, intent, and effectiveness of the proposed legislation.

The second task in the development of the bill is the drafting of it (4.2). Initially it should be drafted in rough form and circulated for reactions from various interested parties and professional and legal consultants. If it is acceptable it can be prepared for passage, if not, it should undergo further legal scrutiny and be re-drafted. When no changes are recommended, the bill should be adopted by the proposing groups (4.3), and further circulated for consideration by interested parties and legal advisors. If it seems to be acceptable to all concerned, preparation for passage can begin. Otherwise the bill should remain in this function until necessary changes are integrated into an acceptable bill.

Prepare for Law Passage 5.0

The fifth function is again an example of a series of subsystems which are interdependent. As the function is diagrammed in Figure 1, the first subsystem is the location of a sponsor for the bill in the legislative assembly (5.1) This should not be very difficult if political party support, and legislative consultation was sought early in the implementation of the system. In seeking a sponsor, one should look for a legislator who is sympathetic to the needs which prompted the proposal. To help with selection of a sponsor, the coordinator of this effort should consider voting records, and special characteristics of the legislators. That is, a legislator with a retarded or otherwise handicapped child is likely to be sympathetic to supporting laws enabling provision of special educational services. Furthermore, consideration should be given to legislator's responsibilities and position in the Assembly. If the legislator is only a member of the agriculture committee, it is probable that he will have less influence on the passage of a bill concerning education than another who is chairman of the

education committee. Another factor to consider is the position and esteem a legislator holds with his colleagues. Such characteristics as seniority and political philosophy and alignment could further influence the kind of support a legislator would attract toward the bill in the assembly.

While searching for a sponsor, lobbying for the legislation should begin (5.2). Professional lobbyists who are familiar with the workings of the legislature can be hired to inform representatives of the need for passage of the bill. During the period that the proposed legislation is passing through various committees of the assembly, interested parties should be available to the committees for testimony in favor of the legislation. If the community had been involved earlier, pressure from organized groups can be placed upon legislators at this time. One state has reported that letter writing campaigns, and visits to state legislators from the public along with statistics and other facts made public by professional educators provided sufficient impetus for passage of much needed special education legislation (Russell, 1973).

During the course of preparing a bill for passage, information from the community (3.0), legal consultants (4.0), and professional consultants (2.0) who have been participating in earlier functions may need to be integrated and reconciled to emerging political issues. Such a situation can result in a necessity for suggesting compromise positions on certain issues. For example, if one is interested in legislation designed to upgrade standards of teacher certification, opposition will come from teachers already certified who would not meet the new standards. Thus, a "grandfather clause" might be a satisfactory compromise. These compromises should not be made impulsively. Rather they should be investigated by reentering portions of the 4.0 function

until a satisfactory compromise adjustment to the needed legislation is effected which would not weaken the bill. The bill's sponsor should, of course, be included in these deliberations.

The final subsystem of the fifth function is the vote. While there is little that can be done to support the bill during the actual response to a call for a vote, proponents of the legislation may find a need to continue lobbying and public pressure until the bill is actually voted upon. This is because even with all the work done so far, it is possible that interest in it will begin to dissipate before a vote, and the issue could die without being put on the legislative agenda.

Implement Law 6.0

Passage of a bill does not insure implementation of it. Earlier in the model (3.4) it was indicated that a responsible unit should be established within the state governmental structure for implementation. Generally one can expect education-related legislation to be administered by the State Department of Education. In addition to an office responsible for getting initial compliance activity to begin, a law must be supported with the necessary funding structure (6.1), and the needed staff (6.2). On the national level, for example, the problems of the National Institute of Education have been traced to problems in the areas of adequacy of funding and staffing (Stivers, 1973).

Much of what has been previously done to get the bill passed must be repeated with the responsible governmental agencies as the target (6.3). Specifically, it would be unrealistic to expect a state department of education to have a core of enlightened workers on its staff in virtually every area of education for which laws are passed during a legislative session. Moreover,

it has been recognized that the state superintendent of public instruction might be the single most important force in determining the effectiveness of legislation (Fifield, 1967). Thus, educating the top administrator and his staff to the issues is an important task for those who supported legislation earlier.

Another important subsystem which occurs simultaneously to 6.3 is publicizing the provisions of the new law (6.4). Here the news services and communications media might be utilized. Furthermore, sending professional educators who are interested in the legislation to provide lectures and workshops for community groups would facilitate publicity of the law. In addition, some groups in the past have set up an information office with a toll-free number which may be called by parties seeking information.

These two subsystems (6.3 and 6.4) contribute to the developtment of administrative statutes or regulations which will determine the manner of implementation of the law (6.5). This is an especially important phase of school law. Consider the example of a state which passed legislation authorizing placement of children with certain types of learning problems into resource room programs. The administrative statutes pertaining to the law determine how children with learning problems will be identified, and how the resource rooms operate. Furthermore, the qualifications of personnel who operate resource rooms are delineated in the administrative regulations. Moreover, such pragmatic concerns as availability of types of materials, length of time a child may stay in the resource room setting, and nature and frequency of reevaluation may be stipulated in governing regulations. Thus, the implementation of services as a result of legislation is profoundly affected by the administrative regulations. By active interest and pressure applied to officials charged with implementation, those who

proposed the legislation can have an impact upon the speed and quality of the application and administration of the new law.

Evaluate Compliance 7.0

The effectiveness of the new legislation is the final test of all the previous efforts. Evaluation procedures designed to determine whether the objectives of the legislation are being met should be built into administrative regulations. Governmental agencies may periodically publish, or otherwise make available to the public, reports of studies of compliance. Other data which might be available include achievement test scores, reports of projects, court actions, etc. Groups interested in particular legislation must continue to monitor effectiveness of the legislation and associated administrative statutes for some time after the legislation is passed to insure objectives are being met (7.1). When information from the state department of education is not forthcoming, formal and informal studies should be completed to evaluate the effectiveness of the laws. When the appropriate data are available, they should be analyzed by qualified personnel (7.2). Reports of these evaluations should be prepared (7.3). These reports might be used to serve as a basis for further legislative action (7.4).

Legislative change is important to those interested in improvement of special education services at the state level. The functions outlined here have been identified as important in the eventual passage of legislation. Their utilization does not have to be sequential. Nor has one function been identified as more crucial than another. The attitude taken in writing this paper has been that people who work outside of government will be proposing legislation. More than likely, people associated with government

in varying degrees - legislators, agency personnel, administrators - will be proposing legislation. One's position with respect to the governmental structure might cause a difference in where the model is entered. Furthermore, local considerations (e.g., bicameral state assemblies, lobbying restrictions, length of legislative session) might influence certain functions in the model. However, regardless of where the system is begun, it is felt that most proposed legislation in education for which there is no initial organized support will not be successful. Adherence to these processes as they have been described with adjustment to one's specific situation should increase the chance of success in dealing with the legislative process.

References

Bersoff, D. N. School psychology and state divisions of special education: A suggestion for change. Journal of School Psychology, 1971, 9, 58-60.

Commonwealth of Kentucky. Bill Drafting Manual, Frankfort, Ky.: Commonwealth of Kentucky, 1971.

Council for Exceptional Children. State law and education of handicapped children: Issues and recommendations. Arlington, Va.: Council for Exceptional Children, 1972.

Fifield, M. The role of school psychology in public education. Psychology in the Schools, 1967, 4, 66-68.

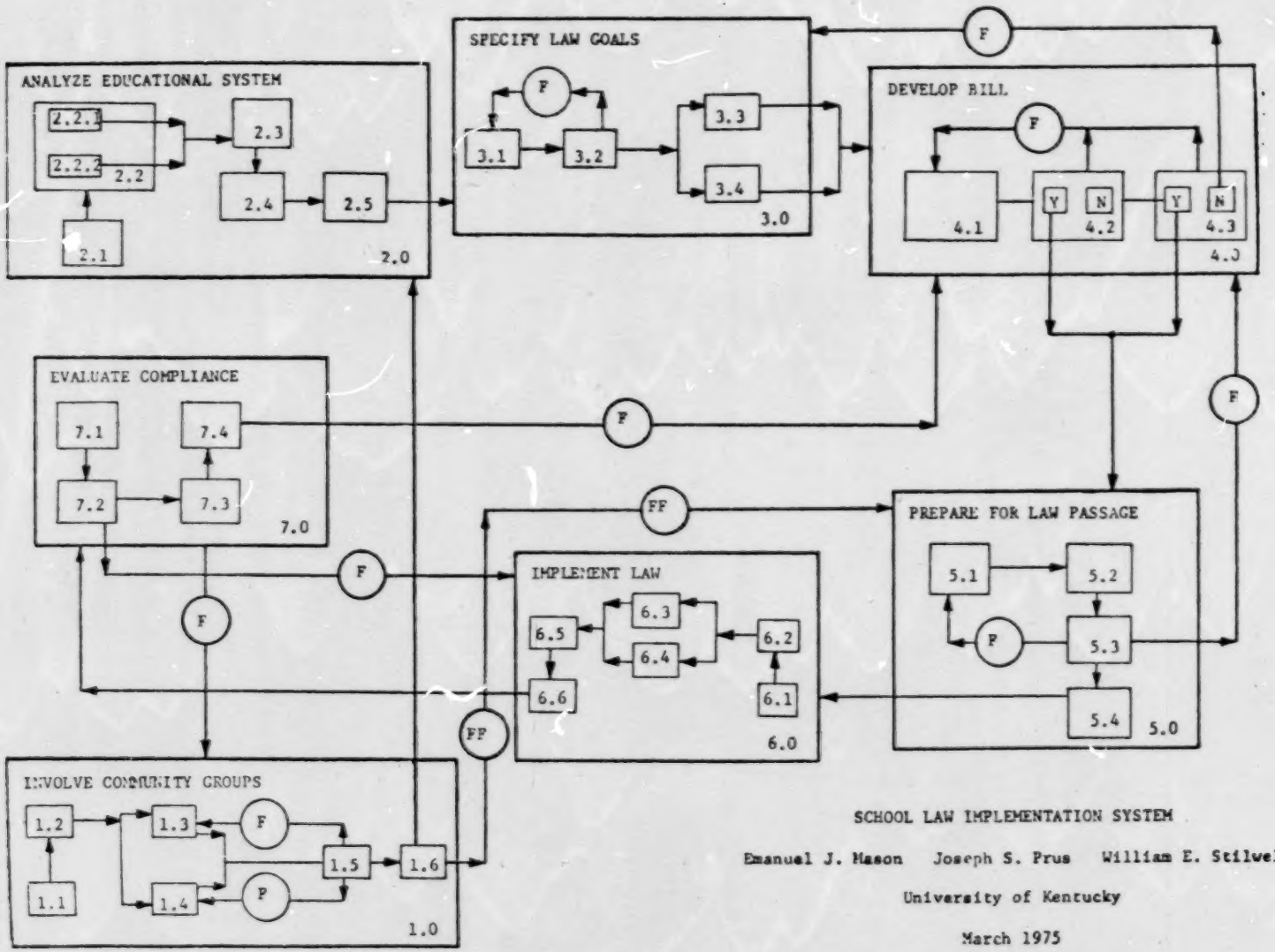
Kimbrough, R. B. Political power and educational decision-making. Chicago: Rank McNally, 1964.

Russell, T. Mandatory legislation for exceptional children in Alabama. Journal of Learning Disabilities, 1973, 6, 395-397.

Stivers, P. NIE: Learning about congress the hard way. Educational Researcher, 1973, 11 (2), 8-9.

Table 1
Functions and Subsystems

Function	Subsystem	
1.0 INVOLVE COMMUNITY GROUPS	1.1	recognize emerging need
	1.2	obtain community involvement
	1.3	analyze special interest groups
	1.4	involve political groups
	1.5	mediate issues among groups
	1.6	agree on need for law
2.0 ANALYZE EDUCATIONAL SYSTEM	2.1	obtain professional consultant
	2.2	assess needs
	2.2.1	assess educational needs
	2.2.2	assess community needs
	2.3	assess human, physical, monetary resources
	2.4	analyze possible solutions
	2.5	evaluate present laws
3.0 SPECIFY LAW GOALS	3.1	perform legislative research
	3.2	develop guidelines/outcomes
	3.3	specify funding sources
	3.4	specify enforcement authority
4.0 DEVELOP BILL	4.1	obtain legal consultation
	4.2	draft bill
	4.3	adopt bill
5.0 PREPARE FOR LAW PASSAGE	5.1	obtain sponsors
	5.2	lobby
	5.3	compromise positions
	5.4	vote
6.0 IMPLEMENT LAW	6.1	obtain authorized funds
	6.2	establish needed staff
	6.3	orient recipient agencies
	6.4	publicize law/guidelines
	6.5	develop statutes
	6.6	implement law
7.0 EVALUATE COMPLIANCE	7.1	collect compliance reports
	7.2	evaluate reports
	7.3	prepare legislative reports
	7.4	recommend law revisions



SCHOOL LAW IMPLEMENTATION SYSTEM

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Figure Captions

Figure 1. Interrelationships of functions and subsystems in the system.